



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NORFOLK DISTRICT
FORT NORFOLK
803 FRONT STREET
NORFOLK VA 23510-1011

August 26, 2016

APPROVED JURISDICTIONAL DETERMINATION

Eastern Virginia Regulatory Section
NAO-2016-0712 (Albemarle and Chesapeake Canal, North Landing River)

Tri-City Properties, LLC
ATTN: Michael Gelardi
3333-24 Virginia Beach Blvd
Virginia Beach, VA 23452

Dear Mr. Gelardi:

This letter is in regard to your request for verification of an approved jurisdictional determination for the waters of the U.S. (including wetlands) on a portion of a +428-acre property known as Centerville Properties. The subject property consists of a 110-acre area of three parcels located 0.9 miles east-northeast of the intersection of Elbow Road and Centerville Turnpike in Chesapeake, Virginia. The subject site includes tax map parcels 0390000000381, 0390000000382, and a limited portion of 0390000000380.

An on-site jurisdictional determination has found waters and wetlands regulated under Section 404 of the Clean Water Act (33 U.S.C. 1344) on the property listed above. Forested, non-tidal adjacent wetlands (approximately 30 acres) and tributaries (approximately 11,900 linear feet) have been identified on the site. This letter shall serve to confirm the wetlands delineation and jurisdictional waters, as shown on the map titled, "Wetland Delineation, Centerville Farm Field Site, Chesapeake, Virginia", revised August 5, 2016 by Roth Environmental, LLC (copy attached). Our basis for this determination is the application of the Corps' 1987 Wetland Delineation Manual (*and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region*) and the positive indicators of wetland hydrology, hydric soils, and hydrophytic vegetation. The wetland is a water of the United States and is part of a tributary system to interstate waters (33 CFR 328.3(a)). These waters meet the Corps' definition of waters of the United States, are part of a tributary system to interstate waters (33 CFR 328.3 (a)) and have an ordinary high water mark.

Discharges of dredged or fill material, including those associated with mechanized landclearing, into jurisdictional waters and/or wetlands on this site will require a Department of the Army permit and may require authorization by state and local authorities, including a Virginia Water Protection Permit from the Virginia Department of Environmental Quality (DEQ). This letter is a confirmation of the Corps jurisdiction for the waters and/or wetlands on the subject property and does not authorize any work in these jurisdictional areas. Please obtain all required permits before starting work in the delineated waters/wetland areas.

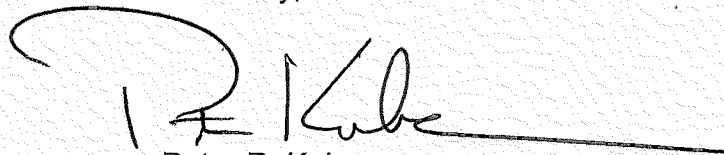
This letter contains an approved jurisdictional determination for your subject site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the North Atlantic Division Office at the following address:

ATTN: Mr. James Haggerty, Regulatory Program Manager
United States Army Corps of Engineers
CENAD-PD-OR
Fort Hamilton Military Community
301 General Lee Avenue
Brooklyn, NY 11252-6700
Email: james.w.haggerty@usace.army.mil

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 C.F.R. part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by October 25, 2016. It is not necessary to submit an RFA form to the Division office if you do not object to the determination in this letter.

This jurisdictional determination is valid for a period of five (5) years from the date of this letter unless new information warrants revision prior to the expiration date. If you have any questions, please contact Audrey Cotnoir either via telephone at 757-549-8819 or via email at audrey.l.cotnoir@usace.army.mil.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. R. Kube', with a long horizontal line extending to the right.

Peter R. Kube
Chief, Eastern Virginia Regulatory Section

Enclosures:

Wetland/Waters Delineation Map; Administrative Appeal Form; Supplemental Preapplication Form

Cc:

Roth Environmental, LLC, ATTN: Matt Roth
Virginia Department of Environmental Quality, Virginia Beach, ATTN: Sheri Kattan

**NONTIDAL FORESTED
WETLANDS (GREEN)**

**STORMWATER
MANAGEMENT BASIN**

**DITCHES THAT ARE
WATERS OF THE U.S.
(BLUE)**

STUDY LIMIT

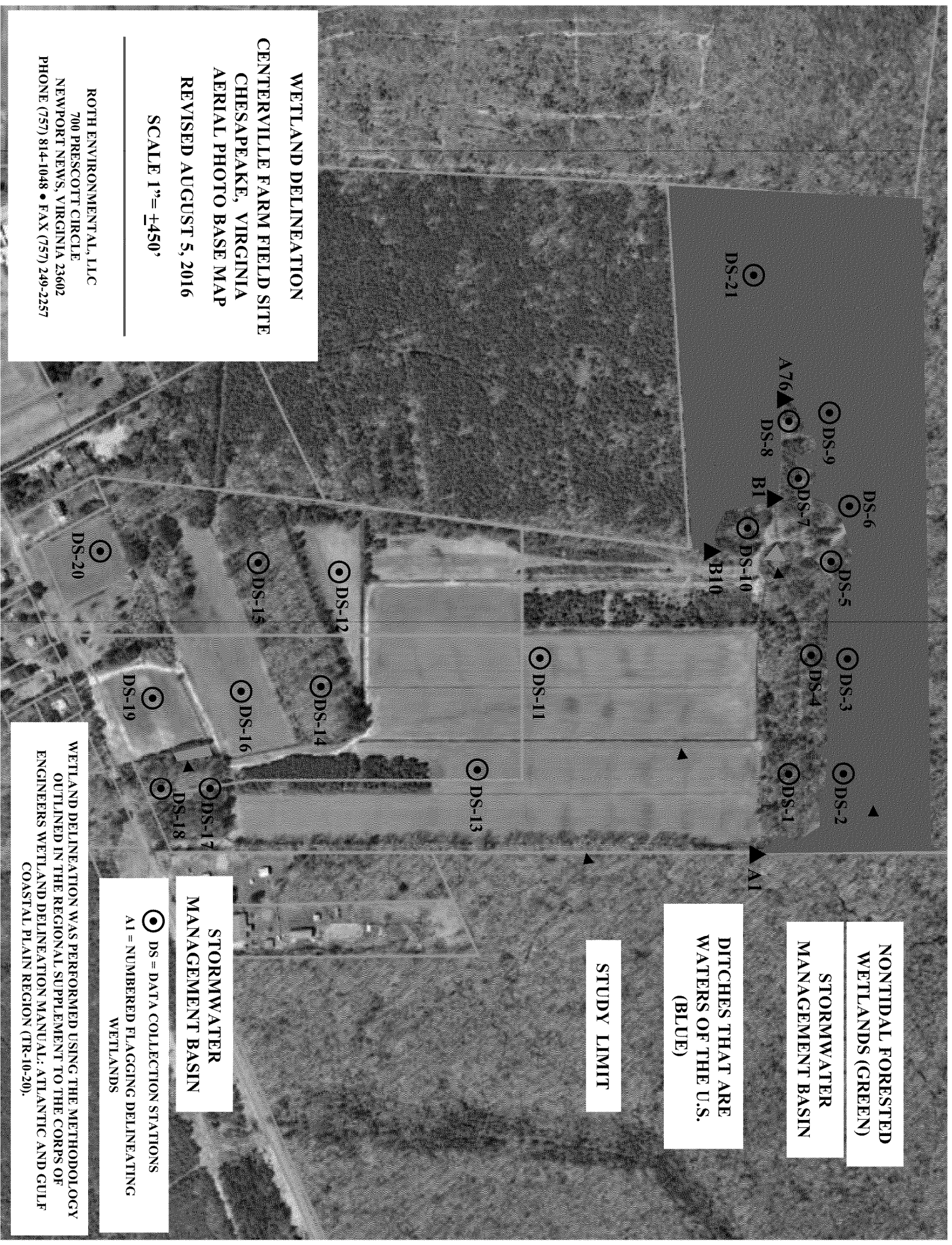
**STORMWATER
MANAGEMENT BASIN**

**DS = DATA COLLECTION STATIONS
A1 = NUMBERED FLAGGING DELINEATING
WETLANDS**

**WETLAND DELINEATION WAS PERFORMED USING THE METHODOLOGY
OUTLINED IN THE REGIONAL SUPPLEMENT TO THE CORPS OF
ENGINEERS WETLAND DELINEATION MANUAL: ATLANTIC AND GULF
COASTAL PLAIN REGION (TR-10-20).**

**WETLAND DELINEATION
CENTERVILLE FARM FIELD SITE
CHESAPEAKE, VIRGINIA
AERIAL PHOTO BASE MAP
REVISED AUGUST 5, 2016
SCALE 1"= ±450'**

**ROTH ENVIRONMENTAL, LLC
700 PRESCOTT CIRCLE
NEWPORT NEWS, VIRGINIA 23602
PHONE (757) 814-1048 • FAX (757) 249-2257**



NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Tri-City Properties, LLC		File Number: NAO-2016-0712	Date: 8/26/2016
Attached is:		See Section below	
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
X	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/appeals.aspx> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

U.S. Army Corps of Engineers, Norfolk District
ATTN: Audrey Cotnoir (CENAO-WR-R)
Great Bridge Reservation
2509 Reservation Road
Chesapeake, Virginia 23322-5217
(757) 549-8819
Email: Audrey.I.cotnoir@usace.army.mil

If you only have questions regarding the appeal process you may also contact:

Mr. James W. Haggerty
Regulatory Program Manager (CENAD-PD-OR)
U.S. Army Corps of Engineers
Fort Hamilton Military Community
301 General Lee Avenue
Brooklyn, New York 11252-6700
Telephone number: 347-370-4650

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:



Reply to
Attention of

DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NORFOLK DISTRICT
FORT NORFOLK
803 FRONT STREET
NORFOLK VA 23510-1096

AUGUST 26, 2016

Supplemental Preapplication Information

Project Number: NAO-2016-0712

Applicant: Tri-City Properties, LLC

Project Location: 110-acre area of three parcels located 0.9 miles east-northeast of the intersection of Elbow Road and Centerville Turnpike in Chesapeake, Virginia. The subject site includes tax map parcels 0390000000381, 0390000000382, and a limited portion of 0390000000380.

1. A search of the Virginia Department of Historic Resources data revealed the following:

- ☐ No known historic properties are located on the property.
- ☒ The following known architectural resources are located on the property:
131-5335 (Unmarked Cemetery)- VDHR determined Not Eligible in 2005
131-0301 (Former house at 2004 Elbow Road)- Demolished
- ☒ The following known archaeological resources are located on the property:
44CS0270 (Farmstead)- VDHR determined Not Eligible in 2005
44CS0274 (Trash scatter, 1875-1899; 1900-1924)- VDHR has not evaluated for National Register eligibility)
- ☐ The following known historic resources are located in the vicinity of the property (potential for effects to these resources from future development):

NOTE:

- 1) *The information above is for planning purposes only. In most cases, the property has not been surveyed for historic resources. Undiscovered historic resources may be located on the subject property or adjacent properties and this supplemental information is not intended to satisfy the Corps' requirements under Section 106 of the National Historic Preservation Act (NHPA).*
- 2) *Prospective permittees should be aware that Section 110k of the NHPA (16 U.S.C. 470h- 2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant.*

2. A search of the data supplied by the U.S. Fish & Wildlife Service, the Virginia Department of Conservation and Recreation and the Virginia Department of Game and Inland Fisheries revealed the following:

- ☐ No known populations of threatened or endangered species are located on or within the vicinity of the subject property.
- ☒ The following federally-listed species may occur within the vicinity of the subject property:
Northern Long-eared Bat (*Myotis septentrionalis*)

- ☐ The following state-listed (or other) species may occur within the vicinity of the subject property:

Please note this information is being provided to you based on the preliminary data you submitted to the Corps relative to project boundaries and project plans. Consequently, these findings and recommendations are subject to change if the project scope changes or new information becomes available and the accuracy of the data.